

separate flood control facilities from urban drainage facilities.

§ 239.8 Cost sharing.

At local protection projects local interests are required to provide all lands, easements, rights-of-way and all alterations and relocations of utilities, streets, bridges, buildings, storm drains and other structures and improvements; hold and save the United States free from damages due to the construction works except damages due to the fault or negligence of the United States or its contractor; and assume operation and maintenance of the works after completion. In addition, local interests are required to provide additional cost sharing to reflect special local benefits or betterments. Such additional special cost sharing will not be required for covered channels when the addition of the cover increases net NED flood control benefits when compared to the open channel or when they are provided for safety in schoolyards, playgrounds, or other known play areas for juveniles. However, the separable cost of providing covers for mitigating SWB or RD impacts or to provide areas for public or private uses such as parking, or the provision of areas for recreation development, etc., will be assigned to local interests. The separable cost of recreational facilities to be constructed on or adjacent to the cover, i.e. picnic facilities, etc., are eligible for Federal participation in accordance with cost-sharing policies for recreation facilities at local protection projects. Cost-sharing policies for project features which are included to make positive contributions to the EQ account are being developed. Until such policies are developed, proposals to cover channels on this basis will be coordinated with HQDA (DAEN-CWP), Washington, D.C. 20314.

§ 239.9 Effective date.

These regulations are applicable to all projects not approved by OCE prior to the date of this regulation.

PART 240—GENERAL CREDIT FOR FLOOD CONTROL

Sec.
240.1 Purpose.

- 240.2 Applicability.
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- 240.7 Credit criteria for projects authorized on or before 17 November 1986.
- 240.8 Credit criteria for projects authorized after 17 November 1986.
- 240.9 Procedures.

APPENDIX A TO PART 240 [RESERVED]

APPENDIX B TO PART 240—FORMULAS FOR DETERMINING AMOUNT OF ALLOWABLE CREDIT

AUTHORITY: Section 104, Water Resources Development Act of 1986 (Pub. L. 99-662); 33 U.S.C. 2214.

SOURCE: 52 FR 44113, Nov. 18, 1987, unless otherwise noted.

§ 240.1 Purpose.

This establishes guidelines and procedures for Department of the Army application of the provisions of section 104 of Pub. L. 99-662.

§ 240.2 Applicability.

Policies and procedures contained herein apply to all HQUSACE elements and field operating agencies of the Corps of Engineers having Civil Works responsibilities.

§ 240.3 Reference.

Section 104 of Pub. L. 99-662.

§ 240.4 Legislative provisions.

Section 104 authorizes and directs the development of guidelines which include criteria for determining whether work carried out by local interests is compatible with a project for flood control. Compatible work which was carried out prior to project authorization, before 17 November 1986 but after 17 November 1981, may be considered part of the project and credited against the non-Federal share of the cost of project, if the local sponsor applied for consideration of such work not later than 31 March 1987. Local work to be carried out after 17 November 1986 must receive Army approval prior to construction to be eligible for credit, taking into account the economic and environmental feasibility of the project. (Such approval can only be given on the basis of the guidelines required to be issued pursuant to section 104(a); hence, the law is silent with respect to work performed between 17